
Thoughts on a Charter of the Commonwealth

Russ Hiebert MP

At the Commonwealth Heads of Government Meeting in Perth, Australia in October 2011, the leaders agreed to study the possibility of a Commonwealth Charter. The Canadian Minister of Foreign Affairs, John Baird, subsequently asked the Senate Standing Committee on Foreign Affairs and International Trade to do a consultation and report on the feasibility and advisability of the proposed Charter. The following article is an extract from the Senate hearings.



The Commonwealth Parliamentary Association provides a valuable means through which legislators in Commonwealth countries can consult each other on a regular basis, foster cooperation and mutual understanding, and promote good parliamentary practice. The CPA works to promote and enhance parliamentary democracy by building knowledge and understanding of democratic governance among Commonwealth countries. It organizes conference, seminars and workshops, publishes and disseminates parliamentary information, promotes effective management of legislatures and encourages the exchange of knowledge and skills among its members.

Canadian parliamentarians play a strong role in carrying out this educational mandate. As one of the Commonwealth's relatively older parliamentary democracies, we have the ability to share our experiences, successes and challenges with emerging and developing democracies.

The richness of Canada's experience as a parliamentary democracy allows our legislators to share their insights on a broad spectrum of issues, helping other Parliaments to make well thought out and effective decisions. Now I would like to turn to the development of the draft charter we are currently considering.

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The latest meeting of the Commonwealth Heads of Government took place in Perth, Australia in October of 2011, and I accompanied the Prime Minister to that meeting. In Perth, it was agreed that a charter of the Commonwealth be established. The Commonwealth has no constitution *per se*, and as such its core principles and values have been set out in a number of different documents. Forty years ago the purpose of the Commonwealth was outlined in the 1971 *Singapore Declaration* as being to promote world peace and support the United Nations, individual liberty and egalitarianism, opposition to racism, opposition to colonialism, the eradication of poverty, ignorance, disease and economic inequality, free trade, institutional cooperation, multilateralism and the rejection of international coercion.

Twenty years later, the *Harare Declaration* of 1991 reaffirmed much of the *Singapore Declaration*, and another 20 years on we are again revisiting the question of what the Commonwealth stands for.

I believe the willingness of the Commonwealth to ask itself this critical question about its *raison d'être* is a reflection of its maturity and depth as an organization. From our perspective, the Eminent Persons Group recommendation that a charter of the Commonwealth be established was welcome news. This endeavour to create a unifying document for the organization, and the broader project of renewal within the Commonwealth, are extremely important pursuits. The draft charter before us outlines the values and aspirations of the Commonwealth. These values include: peace and security, economic growth and development, multilateral global relationships, democracy, good governance and the rule of law, equality and human rights, and the strengthening of civil society and the media, among others.

These are fundamental principles and we believe Canadian parliamentarians, and indeed parliamentarians from across the Commonwealth, can play an important role in implementing and upholding them. Canadian parliamentarians are already on the forefront of promoting the very values and aspirations expressed in the proposed charter. There are sections of the new charter that I believe move the Commonwealth forward and I would like to mention a few of them.

The draft charter talks in article 10 about the “sharing of legal materials” and in article 15 about mutual support where “peace building is needed.” Canadian parliamentarians are already assisting other members of the Commonwealth by sharing our knowledge and experience with them. The draft charter makes explicit the need for such cooperation, and I can only see it growing in the future. Then there is article 23 of the draft charter which states:

in the face of serious or persistent violations of the values expressed in this charter, silence on the part of Commonwealth is not an option.

It remains to be seen what reaction to this article will be during the consultation period. As it is written, it would seem to impose upon Canada – as a member of the Commonwealth – a positive obligation to speak out when the charter of the Commonwealth is being breached. A number of questions pose themselves in this regard. Must Canada speak with the Commonwealth as a collective body or can it speak on its own? Will it matter if the Commonwealth country in question has agreed to the terms of the charter or not? What will constitute a serious and persistent violation?

As with other areas of international relations, it may take time for a body of precedence in this area to accumulate. The Eminent Persons Group has also recommended that:

a commissioner for democracy, the rule of law and human rights should be appointed to provide well researched and reliable information simultaneously to the Secretary-General and the chairperson of Commonwealth Ministerial Action Group on serious or persistent violations of democracy, the rule of law and human rights in member states, and to indicate approaches for remedial action.

Until now, this role has largely been played by the Secretary-General but it is clear that an arm's length officer not unlike our Auditor General or Information Commissioner would be better positioned to investigate violations and make recommendations. Clearly, this new commissioner will need a code of

conduct to work with, and the proposed charter is a logical place for such a code to be enumerated and agreed to by all member nations.

Going forward, the charter could provide an innovative roadmap to help Commonwealth countries target areas for improvement, channeling our shared history and heritage towards a shared future of effective, democratic governance. I also believe that this exercise also presents us with a valuable opportunity to not only renew and reinvigorate the organization, but also to develop a vision for where the Commonwealth should go in the future. The already enumerated objectives in the draft charter such as increasing respect for individual rights and building our democracies have always been worthy goals of the Commonwealth. They will continue far into the future, as they should.

However, as was pointed out by one member of the Eminent Persons Group, simply restating the all right enumerated objectives and aspirations of the Commonwealth does not by itself add value. If the charter is to have real value and relevance, it must embrace a vision that moves our member nations forward in areas where we are not already focused.

The Eminent Persons Group report suggested that at national consultations such as the one your committee is currently engaged in, proposed recommendations for the Commonwealth Heads of Government should be considered.

Therefore, I would like to propose as a recommendation that we place a greater emphasis on two economic objectives that are enumerated to some extent in the Singapore Declaration, which I have already referred to, but have not received as much attention in our recent Commonwealth discussions and initiatives as they might.

The two objectives are free trade and, under the rule of law, the protection of property rights, particularly copyrights, patents and trademarks. Promoting and protecting property rights across the Commonwealth will facilitate investment in and prosper all our member nations. A Commonwealth-wide focus on freeing trade may produce positive results for Canada and our fellow Commonwealth nations that we would not achieve through our current bilateral negotiation model. A new focus on free trade and property rights will lead to greater economic opportunities for the whole of the Commonwealth and a brighter future for all our people.